



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,313	02/28/2002	David Kammer	PALM-3749.US.P	2769

7590

10/20/2005

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/086,313	Applicant(s) KAMMER ET AL.	
	Examiner Jude J. Jean-Gilles	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Action is in regards to the Reply received on 07/26/2005.

Response to Amendment

1. This action is responsive to the application filed on 02/28/2002. Claims 1 and 12 were amended. There are no newly added claims. Claims 1-27 are pending. Claims 1-27 represent a method and apparatus for a "Method for intelligently selecting a wireless communication access point."

Response to Arguments

2. Applicant's arguments with respect to claims 1, and 12 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new ground of rejection as explained here below, necessitated by Applicant substantial amendment (i.e., a method wherein in response to an initiator device broadcasting of a wireless message to a plurality of access points) to the claims which significantly affected the scope thereof.

The dependent claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

Art Unit: 2143

be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-7, and 12-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over (Bishop) U.S. Patent No. 6,377,782, in view of Labun et al (Labun), U.S. Patent No. 6,842,621 B2.

Regarding claim 1, Bishop discloses a method of connecting to a wireless communication access point comprising:

a) an initiator device broadcasting a first wireless message to a plurality of potential access point devices, said initiator device storing therein a list of recognized device addresses for connecting thereto (*column 13, lines 54-67; column 14, lines 1-34; note that the initiator here is the NAID*);

b) in response to said initiator device broadcasting said first message said initiator device receiving a plurality of second wireless messages from a set of said plurality of potential access point devices (*column 14, lines 35-67*);

c) said initiator device comparing device addresses of said plurality of second wireless messages for address matches with said list of recognized device addresses (*column 13, lines 66-67; column 14, lines 1-26; column 23, lines 34-67*);

d) applying a fitness function to address matches of said c) to determine a single address (*column 13, lines 60-67; column 14, lines 1-26; column 23, lines 34-67*); and

e) connecting to an access point device corresponding to said single address (*column 13, lines 60-67; column 14, lines 1-26; column 23, lines 34-67*).

Going back to point c above, Bishop does not teach all the details of this limitation as asserted by the applicant. However, in the same field of endeavor, Labun discloses ".. Access points 126, 128, 130 send inquiry messages over wireless links, such as wireless links 116, 118, 120, for receipt by various mobile stations. If the mobile station 102 wanders to a location where an access point (such as access point 126) is present and receives an inquiry message from the access point via a wireless link (such as wireless link

Art Unit: 2143

116), then the mobile station 102 sends a response message back to the access point via the wireless link..." See [Labun, column 4, lines 43-67]

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Labun's teachings of using an initiator device to broadcast a message in a wireless network, with the teachings of Bishop, for the purpose of "*allowing the system to split control media content from a cellular network connection ...*" as stated by Labun in lines 50-53 of column 1. By this rationale **claim 1** is rejected.

Regarding claim 2, the combination Bishop-Labun discloses the method as described in Claim 1 wherein set of said plurality of potential access point devices is defined by a quantity of device threshold (Bishop; *column 8, lines 18-22; column 23, lines 18-33*).

Regarding claim 3, the combination Bishop-Labun discloses the method as described in Claim 1 wherein set of said plurality of potential access point devices is defined by a time of discovery threshold (Bishop; *column 23, lines 4-33*).

Regarding claim 4, The combination Bishop-Labun discloses the method as described in Claim 1 wherein said fitness function comprises an occupancy level less than a predetermined threshold (see Bishop; *column 8, lines 11-22*).

Regarding claim 5, The combination Bishop-Labun discloses the method as described in Claim 1 wherein said fitness function comprises signal strength greater than a predetermined threshold (see Bishop; *column 23, lines 18-33*).

Regarding claim 6, The combination Bishop-Labun discloses the method as recited in Claim 1 wherein said fitness function comprises residing within a predetermined physical distance (see Bishop; *column 8, lines 51-67*).

Regarding claim 7, The combination Bishop-Labun discloses the method as recited in Claim 1 wherein said initiator device and said responding device are Bluetooth-enabled devices (see Bishop; *column 10, lines 44-67*).

Regarding claim 12, The combination Bishop-Labun discloses a wireless communication device comprising:

Art Unit: 2143

a bus (*fig. 1, item 730; column 15, lines 32-67*);

a wireless transceiver unit coupled to said bus for communicating with responding devices (*fig. 7, item 732; column 2, lines 52-64; column 6, 43-53; column 15, lines 52-67; column 16, lines 1-5*);

a memory cache coupled to said bus (see Bishop; *column 15, lines 51-67; fig. 7, item 734*); and

a processor coupled to said bus, said processor for performing a method for selecting and connecting to a responding access point device (*fig. 7, items 726, and 738; column 15, lines 42-67; column 16, lines 1-18*), said method comprising:

- a) an initiator device broadcasting a first wireless message to a plurality of potential access point devices, said initiator device storing therein a list of recognized device addresses for connecting thereto (see Bishop; *column 14, lines 35-67*);
- b) said initiator device receiving a plurality of second wireless messages from a set of said plurality of potential access point devices (see Bishop; *column 14, lines 35-67*);
- c) said initiator device comparing device addresses of said plurality of second wireless messages for address matches with said list of recognized device addresses (see Bishop; *column 13, lines 60-67; column 14, lines 1-26; column 23, lines 34-67*);
- d) applying a fitness function to address matches of said c) to determine

Art Unit: 2143

a single address; and

e) connecting to an access point device corresponding to said single address (see Bishop; column 13, *lines 60-67; column 14, lines 1-26; column 23, lines 34-67*).

Regarding claim 13, The combination Bishop-Labun discloses the method as described in Claim 12 wherein set of said plurality of potential access point devices is defined by a quantity of device threshold (see Bishop; column 8, *lines 18-22; column 23, lines 18-33*).

Regarding claim 14, The combination Bishop-Labun discloses the method as described in Claim 12 wherein set of said plurality of potential access point devices is defined by a time of discovery threshold (see Bishop; column 23, *lines 4-33*).

Regarding claim 15, The combination Bishop-Labun discloses the method as described in Claim 12 wherein said fitness function comprises an occupancy level less than a predetermined threshold (see Bishop; column 8, *lines 11-22*).

Regarding claim 16, The combination Bishop-Labun discloses the method as described in Claim 12 wherein said fitness function comprises signal strength greater than a predetermined threshold (see Bishop; column 23, *lines 18-33*).

Regarding claim 17, The combination Bishop-Labun discloses the method as recited in Claim 12 wherein said fitness function comprises residing within a predetermined physical distance (see Bishop; column 8, *lines 51-67*).

Regarding claim 18, Bishop discloses the method as recited in Claim 12 wherein said initiator device and said responding device are Bluetooth-enabled devices (see Bishop; column 10, *lines 44-67*).

6. **Claims 8-11, and 19--27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop and Labun as stated in claims 1 and 12 above, further in view of Calvert (Calvert), U.S. Patent No. 6,526,275 B1.

Regarding claim 8, the combination Bishop-Labun discloses the invention as claimed. Bishop teaches the wireless communication access point of claim 1, but does not specifically disclose a method wherein said access point device is coupled to a network comprising a network server.

In the same field of endeavor, Calvert discloses "...a wireless system couple to a context engine server..." [see Calvert, *fig. 1, item 109; column 4, lines 1-33*].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Calvert's teachings of using an access point coupled with a network server, with the teachings of Bishop, for the purpose of "*allowing the system to have desired processing capabilities ...*" as stated by Calvert in lines 25-40 of column 5. By this rationale **claim 8** is rejected.

Regarding claim 9, the combination Bishop-Labun-Calvert discloses the method of Claim 8 wherein a list of all current network access point addresses is maintained on said network server [see *Calvert*, column 7, lines 45-67; column 8, lines 1-22]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 9 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 9** are rejected.

Regarding claim 10, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 9 wherein said list of access point addresses of c) is compared to said list of current network access point addresses, any differences being updated within said list of access point addresses in said memory cache of said initiator device [see *Bishop*, column 14, lines 35-67; see *Calvert*, column 8, lines 23-67]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 10 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 10** are rejected.

Regarding claim 11, the combination Bishop-Labun-Calvert discloses the method of Claim 9 wherein said initiator device abstracts said list of access point addresses into a single abstract name [see *Bishop*, column 14, lines 35-67; see *Calvert*, column 8, lines 23-67]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 11 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 11** are rejected.

Regarding claim 19, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 12 wherein said access point device is coupled to a network comprising a network server [see *Bishop*, fig. 1, item 109; column 4,

Art Unit: 2143

lines 1-33]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 19 [see *Calvert, column 5, lines 25-40*]. By this rationale **claim 19** are rejected.

Regarding claim 20, the combination Bishop-Labun-Calvert discloses the method of Claim 19 wherein a list of all current network access point addresses is maintained on said network server [see *Calvert, column 7, lines 45-67; column 8, lines 1-22*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 20 [see *Calvert, column 5, lines 25-40*]. By this rationale **claim 20** are rejected.

Regarding claim 21, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 20 wherein said list of access point addresses of c) is compared to said list of current network access point addresses, any differences being updated within said list of access point addresses in said memory cache of said initiator device [see *Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 21 [see *Calvert, column 5, lines 25-40*]. By this rationale **claim 21** are rejected.

Regarding claim 22, the combination Bishop-Labun-Calvert discloses the method of Claim 20 wherein said initiator device abstracts said list of access point addresses into a single abstract name [see *Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*]. The same motivation that was utilized in the

Art Unit: 2143

combination of claim 8, applies equally as well to claim 22 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 22** are rejected.

Regarding claim 23, the combination Bishop-Labun-Calvert discloses in a wireless communication device having a wireless transceiver and a memory cache comprising a list of access point addresses, a method for updating said list of access point addresses [see *Bishop*; fig. 7, items 726, 730, 732, 734, and 738] comprising:

a) connecting said wireless communication device with a network server, said network server comprising a list of current network access point addresses for a network [see *Calvert*, fig. 1, item 109; column 4, lines 1-33].

b) comparing said list of access point addresses to said list of current network access point addresses [see *Bishop*, column 14, lines 35-67; see *Calvert*, column 8, lines 23-67];

c) adding to said list of access point addresses in said memory cache of said wireless communication device any addresses found on said list of current network access point addresses and not found on said list of access point addresses [see *Bishop*, column 14, lines 35-67; see *Calvert*, column 8, lines 23-67]; and

d) deleting from said list of access point addresses in said memory cache of said wireless communication device any addresses not found on said list of current network access point addresses and found on said list of access

point addresses [see *Bishop*, column 14, lines 35-67; see *Calvert*, column 8, lines 23-67]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 23 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 23** are rejected.

Regarding claim 24, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein said wireless communication device is a Bluetooth-enabled device [see *Bishop*, column 10, lines 44-67]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 24 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 24** are rejected.

Regarding claim 25, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein connecting said wireless communication device with a network server comprises connecting through an access point [see *Bishop*, fig. 3, items 305-315]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 25 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 25** are rejected.

Regarding claim 26, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein said access point is a Bluetooth enabled device [see *Bishop*, column 10, lines 44-67]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 26 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 26** are rejected.

Regarding claim 27, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein said wireless communication device is a portable computer system [see *Calvert*, column 4, lines 34-48]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 27 [see *Calvert*, column 5, lines 25-40]. By this rationale **claim 27** are rejected.

REFERENCE Cited

7. Bishop (Bishop) U.S. Patent No. 6,377,782.
Calvert (Calvert), U.S. Patent No. 6,526,275 B1
Labun et al (Labun), U.S. Patent No. 6,842,621 B2.

Response to Arguments

8. Applicant's Request for Reconsideration filed on 07/26/2005 has been carefully considered but is not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main points of contention.

A. The Bishop patent fails to disclose or suggest, and is not all related to, a method wherein in response to an initiator device broadcasting of a wireless message to a plurality of access points with respect to independent **claims 1, and 12**.

Art Unit: 2143

B. Applicant contends that the and Calvert patent does not further define a method wherein in response to an initiator device broadcasting of a wireless message to a plurality of access points .

9. As to "Point A" it is the position of the Examiner that Bishop in detail teaches the limitations of the above mentioned claims. However, in view of Labun patent, Applicant's arguments are deemed moot as explained above [*see labun, column 4, lines 43-67*].

As to "Point B", see point A above.

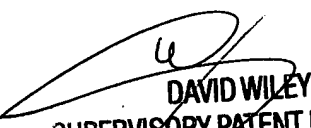
Conclusion

10. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles
Patent Examiner
Art Unit 2143


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

JJG 

October 15, 2005